

DRAFT

A meeting of the New Hampshire Water Well Board was held on October 7th, 2004 at 9:30 am, in rooms 111 & 112, 29 Hazen Drive, Concord, NH, 03302.

Present were: Terrell Swain, Chairman  
Rick Skarinka (DES Representative)  
Board members: Peter Caswell, Christopher Covell, Bart Cushing, Jeffrey Tasker  
Staff: Rick Schofield and Tim Wilson.

Chairman Swain brought the meeting to order at 9:30 and welcomed visitors and introduced members of the Board.

**Approval of Minutes**

Upon motion by Mr. Cushing, seconded by Mr. Covell, the Board voted unanimously to accept the Minutes of the August 5th, 2004 meeting.

**Previous Complaint**

Cyr / Forest Pump & Filter Company, Inc

Mr. Schofield noted that at the August 5<sup>th</sup>, 2004 meeting, the two parties had come to a settlement. He reported that letters had been received from both parties indicating that the agreed upon work had been completed and to the satisfaction of Mr. Cyr. Upon motion by Mr. Covell, seconded by Mr. Tasker, the Board voted unanimously close the complaint.

Mr. Cushing noted that the Cyr / Forest Pump complaint and resulting settlement was a very positive case study of how problems can be solved effectively, commending the work of the Board.

**New Complaint**

Town of Pelham / Mr. Plumber Inc.

Chairman Swain reported that there would be no discussion heard on this complaint. He stated that action by DES was pending in this case, and there was the possibility of an appeal being filed with the Board. No discussion would be heard until DES had completed its findings.

**Request for Investigation**

Mr. Schofield opened by stating that the Board had received a letter from Gilford Well Company requesting an investigation in reference to a well constructed at 16 Mill Cove, Alton, NH, alleging that the well was constructed too close to the on-site septic system, a local permit hadn't been obtained, and the wellhead was buried. On July 9<sup>th</sup> Mr. Schofield conducted a field investigation and met with the owner. Several violations of the well code were observed as follows:

- 1) The well was constructed 43 feet from the on-site waste disposal system (a septic tank) in violation of We 602.05(c); and
- 2) The wellhead was finished below grade in violation of We 602.06(e)(1).

On August 2<sup>nd</sup> the Board received the well completion report. The following additional violations of the well code were documented:

- 1) The report was received 20 days beyond the 90 day reporting period required by RSA 482-B:10 and We 801.03(c);
- 2) A non-conforming well location form was not obtained in accordance with We 602.05(i)(2);
- 3) The 32' of installed casing does not constitute special methods of construction required where wells are constructed closer than 75' from an observed source of contamination, in violation of We 602.05(i)(3).

Mr. Schofield went on to say that given the size, location and topography of the property, there was no alternate location for the well.

He added that he had contacted Scott Costa in reference to a pending notice of proposed administrative fine and representatives from Comac Pump & Well were working with the program to correct the violations. On 9-15-04 Comac returned to the property, jacked out the original 23' of casing and reinstalled and grouted 50' of casing. The wellhead was left above grade 18 inches. The program was currently waiting for documentation of the completed work from Comac.

Terry Weinhold, a representative from the company was present at the meeting and there was discussion about the installation. Mr. Weinhold informed the membership that a well tile had been installed and drained to day light in accordance with all applicable regulations. Mr. Cushing urged him to review past work to be sure that all non conforming locations forms have been filed with the Board. Upon motion by Mr. Skarinka, seconded by Mr. Covell, the Board voted unanimously to table the matter until the DES action had been completed.

### **Licensing**

Mr. Schofield reported that no new applications had been filed for the Board to review.

### **Enforcement**

#### **Response Received by K Beebe Inc.**

Mr. Schofield reported that the Board received a response from Mr. Beebe on August 26<sup>th</sup>, to the Board's request for submittal of a notarized report on all work performed between June 5<sup>th</sup>, 2003 and June 5<sup>th</sup>, 2004 under license number 117. The signed affidavit indicated that K. Beebe Inc drilled no wells during the period and installed 4 pumps during the same time period. Mr.

Schofield felt that he was in compliance with the Boards request. He stated however, that Mr. Beebe was still on probation for non-reporting until June 5<sup>th</sup>, 2005. The Board accepted the report from Mr. Beebe and no action was taken.

### **Old Business**

#### **Low Yield Wells**

*At the August 5th meeting the Board discussed the large number of calls and e-mails received by the office over the summer from new home buyers with complaints of little or no water. In all cases the home owners had either no information or inaccurate information about the water supply capacity prior to purchasing the home.*

Mr. Schofield began by stating that this agenda item had been discussed at the last meeting and the chairman requested that it be taken up again for further discussion. Mr. Schofield reviewed the issues that he had raised at the previous meeting:

- 1) Hydro-fracturing results are not reported by all water well contractors;
- 2) Companies that exclusively hydro-fracture wells do not submit reports on the results of their work;
- 3) There are currently no standards for yield testing after development by hydro-fracturing; and
- 4) He encouraged the Board to promote a disclosure requirement through legislation that would require the disclosure of information relative to the household water supply capacity to prospective homebuyers prior to the closing, if the supply is below the state recommended minimum.

There was discussion on the issues of education, possible legislation and other facets of disclosure. There was consensus among the members that Hydro-frac companies should be reporting to the state and in a manner that would maximize the possibility of matching the data to the well reports submitted by drillers. Staff was directed to develop a supplemental reporting form for hydro-fracturing data. Promoting legislation continued to be discussed but it was agreed that new legislation would be difficult to get passed. Alternatively an amendment to the existing disclosure law was suggested to include more specific information about the home water supply capacity. Staff was asked to contact the Real Estate Commission and consider any other impacts for further discussion.

### **New Business**

#### **Radon Aeration Vents**

Mr. Schofield was asked to bring this item to the Board at the request of Skillings and Sons. Mr. Skillings reported that there had been 4 recent cases where his technicians found squirrels had fallen into radon aeration vents and drown in the tank. He suggested that screens for the vents should be required during installation. Several members felt that this is not an issue if proper methods of construction were used.

#### **Businesses with Similar Names**

Mr. Caswell brought to the Boards attention that there were several well water contractors, pump installers, water filtration companies and hydrofracturing companies that have similar names and

create a great deal of confusion for the public. He cited several examples and suggested that the Secretary of State be contacted regarding the problem. Mr. Covell noted that several individuals who do hold multiple companies with like names have been before the Board for complaints. Mr. Schofield suggested that a letter be sent to the Secretary of State addressing the Board's concerns in the interest of consumer protection, and specifically cited consumer protection law, RSA 358-A:2, II, which states that any person, "causing likelihood of confusion or misunderstanding as to the source, sponsorship, approval or certification of goods and services" with regard to trade or commerce within the state, shall be an unlawful act.

Mr. Schofield reminded the membership that the problem of issuing licenses to businesses with identical names also occurred a few years ago with Hartley Industries Inc. It happens when a company, including the company name, is sold, and the original owner renews his or her license the following year. This is the same circumstance in which Gap Mountain Drilling LLC and Gap Mountain Well & Pump LLC were issued licenses. He suggested that in the future, when this occurs, the program should not renew the previous licensee's license under the business name (which was sold), but instead issue the license under the previous licensee's own name.

The Board discussed whether or not this could be done if both business names were registered with the Secretary of State.

Staff was directed to draft a letter to the Secretary of the State expressing the concerns that had been stated.

#### Senate Bill 534-FN-A

Mr. Schofield reported that Senate Bill 534-FN-A had been passed last session. The bill created a study committee to explore the need for further legislation establishing a program under the AGO, called the Office of Administrative Adjudications, which would conduct all administrative hearings for Boards and Commissions.

The Board asked that staff discuss the issue with Mr. Pelletier to learn if DES held a position on the matter and request that he attend the next committee meeting on behalf of the Board.

#### Colonial Plumbing and Heating

Mr. Schofield reported that Mr. Benedict of Colonial Plumbing and Heating completed the electrical installations for pump installers course as ordered by the Board. The course was instructed by Mark Hilbert, Senior Electrical Inspector. He also sent 5 of his employees to the class as the board had recommended. Mr. Benedict informed Mr. Schofield that he felt the class should be made mandatory for all licensees at least once every three years.

#### Water Systems Handbook

Mr. Schofield presented a Water Systems Handbook to the Board published by the Water Systems Council and said that he planned to purchase a number of them if possible to be made

available, at cost, to pump installer applicants and licensees. The handbook will be considered highly recommended study material for the Pump Installers exam.

#### Outreach to Local Communities

Mr. Schofield identified through the private well questionnaire that 65 towns had expressed interest in discussing well codes. He presented a handout that he compiled as a reference guide that contained all of the pertinent documents regarding licensing and well construction and pump installation codes.

#### Letterhead

Mr. Schofield informed the membership that new letterhead had to be ordered and was requesting input from Board members on the layout.

The meeting was adjourned.

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Rene Pelletier  
Water Well Board Secretary